

## **NOTICE OF PROPOSED RULEMAKING**

### **DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT CALIFORNIA CODE OF REGULATIONS TITLE 25**

**NOTICE IS HEREBY GIVEN** that the California Department of Housing and Community Development (HCD or Department) proposes to amend the regulations described below and in the Informative Digest after considering all comments, objections or recommendations regarding the proposed action.

#### **A. PROPOSED REGULATORY ACTION**

The Department proposes to amend sections 637 and 644 of the Employee Housing Program regulations located in the California Code of Regulations, title 25, division 1, chapter 1, subchapter 3. This regulatory action proposes to modify the Employee Housing Program regulations by increasing the issuance fee, the permit fees for each employee housed (per bed) and lot provided and fees for exemptions, amendments, and inspections.

#### **B. PUBLIC HEARING**

Public hearings have been scheduled at which time any interested party may present statements, orally or in writing, about this proposed regulatory action. Each hearing will continue until all testimony is completed, and will be held as follows:

**SOUTHERN CALIFORNIA**  
**Thursday, August 21, 2003**  
**HCD (Ontario Field Office)**  
**3602 Inland Empire Blvd. #C-220**  
**Ontario, CA 91764**  
**10:00 a.m. to 12:00 p.m.**

**NORTHERN CALIFORNIA**  
**Monday, August 25, 2003**  
**HCD (Headquarters)**  
**1800 3<sup>rd</sup> Street, Room 183/185**  
**Sacramento, CA 95814**  
**10:00 a.m. to 4:00 p.m.**

Prehearing registration will be conducted on the day of the hearing, 30 minutes prior to its commencement (9:30 a.m. – 10:00 a.m.). Those registered will be heard in order of their registration. Anyone else wishing to speak at the hearing will be afforded an opportunity after those registered have been heard. The time allowed for each person to present oral testimony may be limited if a substantial number of people wish to speak.

Individuals presenting oral testimony are requested, but not required, to submit a written copy of their statements. The hearing(s) will be adjourned immediately following the completion of the oral testimony.

The public hearing facilities are accessible to persons with mobility impairments. If any special assistance is required (e.g., interpreter), please notify the contact person named in this notice at least 15 days prior to the public hearing.

The forum of the public hearing is only for interested parties to present their comments. The Department will not respond to any comments presented. All comments received in a timely manner will be considered and responses provided in the Final Statement of Reasons at the end of the regulatory process.

### **C. WRITTEN COMMENTS**

The Department will consider written comments concerning this proposed regulatory action that are submitted on or before the close of the public comment period which will be at 5:00 p.m. August 25, 2003.

Written comments may be submitted to by mail, e-mail, or fax, as follows:

By mail to:

**Department of Housing and Community Development  
1800 Third Street, Room 260  
P.O. Box 1407  
Sacramento, California 95812-1407  
Attention: Division of Codes and Standards**

Comments may be submitted via email to [ehfeeregs@hcd.ca.gov](mailto:ehfeeregs@hcd.ca.gov) or may be submitted by facsimile to (916) 327-4712. All comments submitted via email or facsimile must be submitted on or before the close of the public comment period on August 25, 2003, at 5:00 p.m.

### **D. PERMANENT ADOPTION OF REGULATIONS/POST-HEARING MODIFICATIONS TO THE TEXT OF THE REGULATIONS**

Following the public comment period, the Department may thereafter adopt the proposals substantially as described in this rulemaking package or may modify such proposals, if these modifications are sufficiently related to the original text. With the exception of minor technical or grammatical changes, the text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact. The Department will accept written comments on the modified regulations during the 15-day period.

**NOTE:** To be notified of any modification, you must submit comments as specified above, or request that you be notified of any modification.

### **E. AUTHORITY AND REFERENCE**

The Department proposes to adopt these regulations under the authority granted by sections 17003.5, 17036, 17040 and 17050 of the Health and Safety Code.

The purpose of these proposed regulations is to implement, interpret, and make specific, sections 17036, 17040, and 17050 of the Health and Safety Code.

## **F. INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW**

### **1. Summary of Existing Laws**

The Department is authorized under the Employee Housing Act, which is located in division 13, part 1 of the Health and Safety Code (HSC) beginning at section 17000, to operate the Employee Housing Program (EHP). The Employee Housing Act mandates that the Department promulgate statewide preemptive regulations for the EHP relating to the maintenance, use, and occupancy of "employee housing." Employee housing, subject to the EHP, is housing that accommodates five or more employees, or in certain circumstances, five or more farmworkers in rural areas as both are defined in HSC section 17008. The Department is the enforcement agency under the EHP unless a local government elects to assume enforcement responsibility pursuant to HSC section 17050(b).

HSC sections 17020 and 17040 specifically grant the Department general authority to adopt regulations for the EHP. HSC section 17036 grants the Department the authority to adopt regulations establishing a schedule of fees to pay for the administration and enforcement of the EHP and is the subject of this regulation package.

### **2. Summary of Existing Regulations**

The regulations adopted by the Department for the EHP are contained in the California Code of Regulations, title 25, division 1, chapter 1, subchapter 3. The purpose of the regulations is to benefit the employees and other farmworkers and their families by providing a decent living environment through the enforcement of rules and regulations that provide for the health, safety, and general welfare of residents who reside in employee housing subject to the EHP. The affected sections of this regulation package are section 637, which establishes a schedule for the issuance fee, the permit fees for each employee housed (per bed) and lots provided, and fees for exemptions, amendments and inspections, and section 644, which establishes a schedule of hourly fees for the inspection and reinspection of employee housing facilities subject to the EHP.

### **3. Summary of Effects of Proposed Regulatory Action**

The purpose of the proposed fee increases is to make the Department's EHP fully fee supported by fiscal year 2004-2005, by increasing annual fees by approximately 1 million dollars. This fee increase proposal will also authorize the increase of fees collected by local jurisdictions that have assumed enforcement, because many use the same fee schedules in section 637 and 634 (i.e., approximately half of the statewide EHP). It has been estimated that these local jurisdictions will collect an additional 1 million dollars per year in fees.

The statewide EHP is enforced by either the Department or local governments that have assumed enforcement responsibilities, and is administered by the fees collected pursuant to the fee schedule contained in the California Code of Regulations, title 25, division 1, chapter 1, subchapter 3 (EHP regulations). Because these fees have been insufficient to fully fund the operation of the statewide EHP, the Department's program has been subsidized with General Fund appropriations from the state budget, and some local government programs have raised their fees above the schedule of fees specified in the EHP regulations.

The EHP collects fees derived from two methods, either (1) by a specific amount attributable to a specific activity (e.g., the issuance of a permit-to-operate), or (2) hourly fees attributable to a variety of activities measured by the staff time provided (e.g., technical services). The fees proposed to be increased are associated with permitting activities such as fees for a permit-to-operate, the number of beds (occupied) and lots on the facility, inspection and reinspections, and exemptions from the EHP.

For the budget year 2001-02 the Department's estimated portion of the EHP required a total of \$1,152,078 funds to operate. This total operating budget was funded with \$193,078 (17% of *annual total*) of collected fees with the balance subsidized with \$959,000 (83% of *annual total*) of General Fund appropriations. It is anticipated that the General Fund appropriation will be reduced in the 2003-04 budget to \$220,000 and eliminated entirely from the 2004-05 budget.

To make the Department's EHP fully fee supported by fiscal year 2004-2005, the following fees in Table 1 are proposed to be increased. The fee rate increases are needed to cover the actual cost of the inspection program.

**Table 1**  
**Proposed Fee Rate Increase**

<b><u>Fee Items</u></b>	<b><u>Existing</u><sup>1</sup></b>	<b><u>Fees to Fully Fund</u></b>
Beds	\$12/bed	\$90/bed
Lots	\$12/lot	\$90/lot
Issuance	\$35/permit	\$170/permit
Amendment	\$20/amend	\$40/amend
Inspection <sup>2</sup>	\$60 1 <sup>st</sup> hr	\$120 for 1 <sup>st</sup> hr
		\$75/additional hrs
	\$30 up to ½ hr	\$38 up to ½ hr

Note: 1. Existing fees as specified in sections 637 and 644 of the California Code of Regulations, title 25, division 1, chapter 1, subchapter 3.

2. Includes all inspections and reinspections except first inspection related to permit to operate issuance.

Table 2 shows the annual fees estimated to be collected by the Department from facilities under its portion of the EHP.

**Table 2**  
**Department's Estimated Annual Fee Increase**

<b><u>Fee Items</u></b>	<b><u># Of Units<sup>1</sup></u></b>	<b><u>Proposed Fees To Fully Fund</u></b>	<b><u>Estimated Annual Fee Collection</u></b>
Beds	11,138	\$90/bed	1,002,420
Lots	200	\$90/lot	18,000
Issuance	573	\$170/permit	97,410
Amendment	20	\$40/amend.	800
Inspections <sup>2</sup>	210	See Table 1	27,300
<b>Total =</b>			<b>\$1,145,930</b>

Notes: 1. Estimates based on EHP 2001-2002 Fiscal year number of units.  
2. Estimate includes 1<sup>st</sup> hour and addition hours or ½ hours for inspections and reinspections.

The proposed fee increases will also increase the fees collected by local jurisdictions that have assumed enforcement responsibility of the EHP. The Department's data used in the 2001 Statistical Summary for the EHP, showed that the affected local governments regulated 590 employee housing facilities with 12,509 beds and 562 lots subject to the statewide EHP. Using these estimated numbers of units, the proposed fee increases will provide local governments with an additional \$1,075,588 per year in fees. This estimate may be high because some local jurisdictions have already increased their EHP fees above the existing fee schedule located in sections 637 and 644 of the EHP regulations.

The statewide effect of the proposed fee increases on employee housing facilities subject to the statewide EHP, will be an increase in fees of approximately \$2,005,520 [\$929,932 from the Department and \$1,075,599 from the local government EHP's]. If each facility were assumed to have the same number of beds and lots, the average fee increase per facility would be \$1,724 per year (i.e., \$2,005,520 divided by 1,163 facilities). This estimate is based on the statewide EHP (i.e., from both the Department's and local government's EHP), which consists of 1,163 employee housing facilities with a total of 23,647 beds and 762 lots used for mobilehome or recreation vehicles by the employees.

It is uncertain as to the number of employees affected by the proposed fee increases, because the Department's database for the EHP does not report the number of employees subject to the program; it only reports the use of beds and lots. The Department believes that 75-80% of employees subject to the EHP are

migrant agricultural workers who are expected to move from one facility to another throughout the growing season. The number of employees subject to the EHP, could range from 23,647 employees (assuming one bed used per employee use) to 7,882 employees, based on each employee using 3 different facilities per year (23,647 beds / 3 uses per employee).

#### 4. Comparable Federal Statute or Regulations

The Migrant and Seasonal Agricultural Worker Protection Act (MSPA) repealed and replaced the Farm Labor Contractor Registration Act of 1963, as amended. (29 C.F.R. § 500.0) The MSPA, as amended (29 U.S.C. §1801 et seq.), safeguards most migrant and seasonal agricultural workers in their interactions with farm labor contractors, agricultural employers, agricultural associations, and providers of migrant housing. The MSPA and its regulations are intended to supplement state law compliance with the MSPA and do not excuse individuals from compliance with appropriate state law or regulations. (29 C.F.R. § 500.2) Under 29 Code of Federal Regulations part 500.130(a) "Each person who owns or controls a facility or real property which is used as housing for any migrant agricultural worker must ensure that the facility complies with all substantive Federal and State safety and health standards applicable to such housing."

Under 29 Code of Federal Regulations part 500.135 (a), any of these facilities or real properties used for migrant housing may not be occupied until it has been inspected and certified to meet these safety and health standards by a state or local health authority or other appropriate agency, including a federal agency. Under subdivision (b) of this part, once a facility or property is occupied, it must be supervised and continually maintained so as to ensure that it remains in compliance with the applicable safety and health standards.

Under 29 Code of Federal Regulations part 500.132, the applicable federal housing standards are the standards promulgated by the Employment and Training Administration (at 20 C.F.R. § 654.404 et seq.) and the standards promulgated by the Occupational Safety and Health Administration (at 29 C.F.R. § 1910.142 et seq.). "Substantive safety and health standards include, but are not limited to those that provide fire prevention, and adequate and sanitary supply of water, plumbing maintenance, structurally sound construction of buildings, effective maintenance of those buildings, provision of adequate heat as weather conditions require, and reasonable protections for inhabitants from insects and rodents." (29 C.F.R. § 500.113)

#### 5. Policy Statement Overview

The Division of Codes and Standards (Division), within the Department, administers the Employee Housing Program (EHP) through the Employee Housing Act, located in the Health and Safety Code (HSC) beginning at section 17000. The regulations adopted under the Employee Housing Act for the EHP are located in title 25, division 1, chapter 1, subchapter 3, of the California Code

of Regulations (the EHP regulations). Sections 637 and 644 of the EHP regulations are the sections being proposed for fee increases in this regulation package.

The EHP, which is effective statewide, preempts all local regulations and provides for the maintenance, use, and occupancy of “employee housing.” The EHP does not regulate all “employee housing” but only that housing which accommodates 5 or more employees or in certain circumstances five or more farmworkers, and both are defined in HSC section 17008. In general, the EHP does not regulate employee housing that is government owned or operated migrant worker facilities. The program also does not regulate housing maintained in connection with horse racing facilities or “Employee Community Housing” of at least 200 single-family dwellings of four or more rooms owned and maintained pursuant to the State Housing Law by the employer. Properly maintained permanent housing, including manufactured homes and mobilehomes on a dairy farm may also be exempt from the annual permit requirements of the EHP. The EHP also does not regulate housing provided by a public or private school, or any city, county, state, or federal agency.

The Department is the enforcement agency under the EHP, unless a local jurisdiction elects to assume enforcement responsibility pursuant to HSC section 17050(b). Enforcement typically consists of inspecting and issuing permits for the operation of employee housing subject to the EHP and includes identifying facilities, citing violations, and enforcing compliance. The purpose of the EHP is to benefit the employees and their families by providing a decent living environment, through the enforcement of rules and regulations that provide for the health, safety, and general welfare of the residents.

The EHP regulations include specific requirements such as the maintenance of grounds, buildings, sleeping space, and the facilities’ sanitation and heating systems. The program also provides technical services and assistance, including on-site inspections. Whether or not the local government assumes jurisdiction, all local governments are required under the EHP to enforce construction requirements for permanent buildings and other structures at the facilities and for the installation of manufactured housing at employee housing facilities subject to the EHP.

The Division believes that approximately 75-80% of persons occupying employee housing facilities regulated under the EHP are migrant agricultural workers, moving from farm-to-farm as the work connected with agricultural changes through the growing season. Because of the seasonal harvest activity and the state’s broad geographical areas and scattered locations of growing areas, workers relocate frequently to where the work is located. Accordingly, much of the employee housing is often operational only on a seasonal basis standing vacant for months. Depending on rotation of crops or sometimes the practice of

letting a season pass without planting crops, some employee housing might become “inactive” without being dismantled.

The Division believes there is a growing problem for the migrant agricultural workers in finding available housing or affordable housing as they move from farm-to-farm through the growing season, which can only be solved through strict enforcement of the EHP. The Division believes that this problem has resulted in workers often living in “illegal encampments” under unsafe and unhealthy living conditions. It also appears that dilapidated housing and sheds are used for employee housing. The Division also believes that farm labor contractors arrange housing in motels and other forms of housing or have employees “camp,” almost none of which are permitted or inspected for health and safety conditions.

#### Problem Addressed by this Rulemaking

The problem addressed by the proposed fee increases is to make the EHP fully fee supported by fiscal year 2004-2005 due to an anticipated loss of General Fund appropriations that currently subsidize the Department’s annual required budget needed to operate its portion of the EHP.

For the budget year 2001-02 the Department’s estimated portion of the EHP required a total of \$1,152,078 funds to operate. This total operating budget was funded with \$193,078 (17% of *annual total*) of collected fees with the balance subsidized with \$959,000 (83% of *annual total*) in General Fund appropriations. It is anticipated that the General Fund appropriation will be reduced in the 2003-04 budget to \$220,000 and eliminated entirely from the 2004-05 budget.

To make the Department’s EHP fully fee supported by fiscal year 2004-2005 the fees in Table 1 above are proposed to be increased. The fee rate increases are based on generating additional fees to compensate for the loss of the 2001-02 General Fund appropriations.

The proposed fee increases will also increase the fees collected by local jurisdictions that have assumed enforcement responsibility of the EHP. The Department’s data used in the 2001 Statistical Summary for the EHP showed that the affected local governments regulated 590 employee housing facilities with 12,509 beds and 562 lots subject to the statewide EHP. Using these estimated numbers of units, the proposed fee increases will provide local governments with an additional \$1,075,588 per year in fees. This estimate may be high because some local jurisdictions have increased their EHP fees above the existing fee schedule located in sections 637 and 644 of the EHP regulations.

The statewide effect of the proposed fee increases on employee housing facilities subject to the statewide EHP, will be an increase in fees of approximately \$2,005,520 [\$929,932 from the Department and \$1,075,599 from



the local government EHP's]. If each facility were assumed to have the same number of beds and lots, the average fee increase per facility would be \$1,724 per year (i.e., \$2,005,520 divided by 1,163 facilities). This estimate is based on the statewide EHP (i.e., from both the Department's and local government's EHP), which consists of 1,163 employee housing facilities with a total of 23,647 beds and 762 lots used for mobilehome or recreation vehicles by the employees.

It is uncertain as to the number of employees affected by the proposed fee increases because the Department's database for the EHP does not report the number of employees subject to the program; it only reports the use of beds and lots. The Department believes that 75-80% of employees subject to the EHP are migrant agricultural workers that are expected to move from one facility to another throughout the growing season. The number of employees subject to the EHP could range from 23,647 employees (assuming one bed used per employee use) to 7,882 employees based on each employee using 3 different facilities per year (23,647 beds / 3 uses per employee).

#### **G. DISCLOSURES REGARDING THE PROPOSED ACTION**

1. Mandate on Local Agencies or School Districts: None
2. Cost or Savings to State Agencies: It is anticipated that the Department will save \$959,000 based on fiscal year 2001-02 General Fund appropriations, however, this will be offset by the additional collection of fees to compensate for the loss of the General Fund Appropriation.
3. Cost or Savings in Federal Funding to the State: None
4. Cost to Any Local Agency or School District for Which Government Code Section 17561 Requires Reimbursement: None
5. Nondiscretionary Cost or Savings to Local Agencies: It is anticipated that local agencies will save approximately \$1,075,588 (based on fiscal year 2001-02 data) due to the collection of increased fees.

#### **H. INITIAL DETERMINATION OF SIGNIFICANT, STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESSES, INCLUDING ABILITY TO COMPETE**

The Department has made an initial determination that the proposal to increase annual permit fees, the per bed and lot fees, the inspection and reinspection fees, and the exemption fees will have a significant adverse economic impact on businesses because of an estimated increase in annual fees of 2 million dollars. Based on the Department's data to be used in the 2001 Statistical Summary for the EHP, there will be 1,163 facilities that are regulated under the EHP and that will be affected by the proposed fee increase. As estimated in an example in section F3, above, there could be approximately 7,882 to 23,647 employees affected by the fee increases. It is uncertain as to the number of employees affected because the Department's data base only lists the number of beds provided, and not the number of employees requiring housing in a given year

throughout the year.

1. The types of businesses that could be affected by these regulations would be employee housing facilities as defined in HSC section 17008 that provide for 5 or more employees, and those businesses that provide services for these facilities. There are certain employee housing facilities exempt from the EHP and/or from obtaining a permit. Some of those employee housing facilities that are exempt consist of nonprofit-owned and/or government-owned farmworker housing, and certain other farmworker housing with public financing of construction.

2. The proposed regulations do not require any new project reporting, recording keeping, or any other compliance requirements.

3. The Department has made an initial determination that the proposed fee increases may have a significant, statewide adverse economic impact on businesses, including the ability of California businesses to compete with businesses in other states. The Department has only considered the proposed alternative of not increasing fees to lessen any adverse impact on businesses and invites you to submit proposals. Submission may include the following:

- a. The establishment of differing compliance or reporting requirements or timetables, which take into account the resources available to businesses.
- b. Consolidation or simplification of compliance and reporting requirements for businesses.
- c. The use of performance standards rather than prescriptive standards.
- d. Exemption or partial exemption from the regulatory requirements for businesses.

#### **I. COST IMPACT ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES**

The Department has made an initial determination that the proposed fee increases will have a significant cost impact on representative private persons or businesses that operate or provide support services for employee housing facilities subject to the EHP, and that must absorb the fee increases. As discussed above in section F, the proposed fee increases will require persons or businesses that operate employee housing subject to the EHP, to sustain total

statewide annual fee increases of approximately 2 million dollars from the current fees paid to the Department's and local jurisdiction's EHP.

The Department has made an initial determination that the proposed fee increases may have a significant effect on employees that are under the

jurisdiction of the statewide EHP. As discussed in an example in section F3 above, there could be approximately 7,882 to 23,647 employees affected by the fee increases if the fee increases are passed on as rent increases to the employees. If the total fee increases are passed on as rent increases, the employees would absorb rent increases ( $(23,647 \text{ beds} \times 90/\text{bed fee increase}) \text{ divided by } 7,882 \text{ employees}$ ) of approximately \$270 per year. However, if there are 15,000 employees, the rent increase would be \$142 per year. As discussed above, the Department's record does not record the number of employees subject to the statewide EHP. Another adverse effect on employees would occur if the facilities eliminated their employee housing, thus, causing the employees to find higher cost alternative housing such as motels or hotels.

**J. ASSESSMENT OF EFFECT OF REGULATIONS UPON JOBS AND BUSINESS EXPANSION, ELIMINATION OR CREATION**

The Department has made an initial determination as to what extent this proposed fee increase will affect the following:

- **The creation or elimination of jobs within the State of California.**  
These regulations may affect the creation of, or cause the elimination of, jobs within the State of California associated with labor contractors, support functions for the employee housing or with the design, construction, maintenance and operations of employee housing facilities. Because the fee increases will require approximately 1,163 existing employee housing facilities subject to the EHP to sustain an additional 2 million dollars per year in fees, some facilities may choose to discontinue providing employee housing resulting in elimination of jobs associated with these operations. The fee increases may also discourage the expansion or creation of new jobs related to labor contractors, support functions for the employee housing or with the design, construction, and operations of new employee housing facilities.
- **The creation of new businesses or the elimination of existing businesses within the State of California.**  
The proposed fee increases, resulting in an additional 2 million dollars being collected from employee housing facilities, may adversely affect the creation of new businesses or the elimination of existing businesses within the State of California. There is a potential that those businesses that currently support labor contractors, support functions for the employee housing, or that design and build employee housing, such as the recently built Napa Yurt Village in Napa County, will lose business to facilities that choose to discontinue providing employee housing and/or choose not to build new employee housing. Those businesses that provide services to existing or new employee housing may also face similar adverse effects.

□ **The expansion of businesses currently doing business with the State of California.**

Those businesses associated with labor contractors, support functions for the employee housing or with the design, construction, or operations of employee housing may lose their ability to expand their businesses if existing employee housing facilities choose to discontinue providing employee housing and/or choose not to build new employee housing.

**K. INITIAL DETERMINATION OF SIGNIFICANT EFFECT ON HOUSING COSTS**

The Department has made an initial determination that this proposal may have a significant affect on housing costs if the proposed fee increases are passed on as rent increases to the employees. It is uncertain as to the number of employees affected because the Department's record only indicates the number of beds and lots used and not the number of employees subject to the EHP. As discussed in an example in section F3, above, there could be approximately 7,882 to 23,647 employees affected by the fee increases if the proposed fee increases are passed on as rent increases to the employees. If the total fee increases are passed on as rent increases, the employees would absorb rent increases *((24,611 beds x \$90/bed fee increase) divided by 8,882 employees)* of approximately \$270 per year. However, if there are 15,000 employees, the rent increase would be \$142 per year. Another adverse effect on housing cost would occur if the facilities eliminated their employee housing, thus, causing the employees to find higher cost alternative housing such as motels or hotels.

**L. EFFECT ON SMALL BUSINESS**

The Department has determined that many of the 1,163 employee housing facilities subject to the EHP may be considered small businesses and will be adversely affected by the proposed fee increases because they will sustain an additional 2 million dollars in fees per year.

If each facility had the same number of beds and lots, the average fee increase per facility would be \$1,724 per year (i.e., \$2,005,520 divided by 1,163 facilities). As discussed above, those businesses associated with the labor contractors or support functions for the employee housing or with the design, construction or operation of employee housing may also be adversely affected if these small businesses eliminate existing employee housing or choose not to provide new employee housing.

**M. CONSIDERATION OF REASONABLE ALTERNATIVES**

The Department must determine that no reasonable alternative considered by the Department, or that has otherwise been identified and brought to the attention of the Department, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome

than the proposed action.

The only other alternative the Department has evaluated was to not increase fees to offset the potential funding lost due to the elimination of General Fund appropriation. This Department has determined that this option is not reasonable and would result in insufficient funding to administer and enforce the statutorily-mandated Employee Housing Act.

Insufficient funding would result in the inability of the Department to fulfill its statutory obligation of assuring that critical health and safety provisions are in place for employees and their families. Unhealthy and unsafe living conditions for employees would impact California's farm industry with sick or unhealthy workers. There would be an increase in, and continued use of, existing "illegal encampments" that would impact the workers and their families, the general public, and agricultural products due to unregulated health and safety living conditions. There would also be adverse impacts for employees' children as a result of sick children—either attending or missing school due to living in unhealthy and unsafe living conditions.

#### **AVAILABILITY OF DOCUMENTS AND CONTACT PERSON(S)**

The Department has prepared an Initial Statement of Reasons for the proposed regulatory action and has available all the information upon which the proposed regulations are based. Copies of the exact language of the proposed regulations, the Initial Statement of Reasons, the rulemaking file, the Final Statement of Reasons (when available) and other information, if any, may be obtained upon request from the Department at the following address or voice mail number.

The Department of Housing and Community Development  
Division of Codes and Standards  
1800 3<sup>rd</sup> Street, Room 260  
Sacramento, CA 95814  
Voice Mail: (916) 327-1800  
Fax (916) 327-4712

The regulatory text, Initial Statement of Reasons and Final Statement of Reasons (when available) will also be posted on the Department's website at:  
[www.hcd.ca.gov](http://www.hcd.ca.gov)

Questions regarding the regulatory process, or clarification regarding the substance of this regulatory proposal may be directed to:

Ms. Michelle Garcia, Staff Services Manager  
Department of Housing and Community Development  
Telephone: (916) 327-2798  
Fax: (916) 327-4712

e-mail: [mgarcia@hcd.ca.gov](mailto:mgarcia@hcd.ca.gov)